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Chairperson: Ms. Gittens-Joseph ..... (Trinidad & Tobago)

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The meeting was called to order at 3.05 p.m.

Agenda item 114: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/55/177, A/55/213 and Add.1, A/55/214 and Add.1, A/55/275 and Add.1, A/55/279, A/55/280 and Add.1 and 2, A/55/283, A/55/288, A/55/289, A/55/291, A/55/292, A/55/296 and Add.1, A/55/302, A/55/306, A/55/328, A/55/342, A/55/360, A/55/395-S/2000/880, A/55/404-S/2000/889, A/55/408; A/C.3/55/2)

(c) Human rights situations and reports of special rapporteurs and representatives (A/55/269, A/55/282-S/2000/788, A/55/294, A/55/318, A/55/335, A/55/346, A/55/358, A/55/359, A/55/363, A/55/374, A/55/400, A/55/403 and A/55/426-S/2000/913)

(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action (A/55/36 and A/55/438-S/2000/93)

(e) Report of the United Nations High Commissioner for Human Rights (A/55/36)

1. **Ms. Robinson** (United Nations High Commissioner for Human Rights) said that it was sad to have to report that the overall human rights situation worldwide continued to be worrying and that in some areas, such as the Middle East and several parts of Africa the situation was worsening. While the crisis in the Middle East had led to the convening of a special session of the Commission on Human Rights the previous week, the worsening situation in countries such as Burundi and the Democratic Republic of the Congo tended not to get the attention that was needed. There was a selectivity of approach and concern which should be addressed by the Committee, particularly as preparations continued for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to be held in South Africa in 2001.

2. Despite over 50 years of constructive development of international human rights norms, standards, institutions and mandates, too little progress was being made in the prevention of gross violations of human rights and in the implementation in practical terms of knowledge and awareness of human rights at the grass-roots level. On a brighter note, the protection of human rights had been recognized as the most important task of the United Nations.

3. For her Office, that increased focus was reflected in a growing number of mandates and programmes and in an ever-larger number of requests for technical cooperation and advisory services from Governments all around the world. In order to deal with evolving demands, she had initiated a management of change process designed to strengthen the Office, particularly in the areas of performance management and strategic planning, as well as programme, financial, information and communications management. There had also been several noteworthy developments at the Commission on Human Rights. On 15 September, an informal session of the Commission had been convened to facilitate an exchange of information prior to the General Assembly's consideration of human rights issues. A fifth special session of the Commission on Human Rights had been convened in Geneva the previous week to discuss the human rights implications of the outbreak of violence in the occupied Palestinian territories. Special emphasis had been placed on the need to put an end to violence and to restore dialogue and peace based on respect for human rights. Many delegations had welcomed the Secretary-General's efforts in the context of the Sharm el-Sheikh emergency summit. In its resolution on the issue, the Commission had decided to establish a human rights inquiry commission and had requested the High Commissioner for Human Rights to undertake an urgent visit to the occupied territories and to report to the Commission at its fifty-seventh session and, on an interim basis, to the General Assembly at its current session. Eight special procedures of the Commission had also been requested to carry out immediate missions to the occupied territories and to report their findings to the Commission and the General Assembly. The Commission had further recommended that the Economic and Social Council meet on an urgent basis in order to act on the proposals contained in the resolution.

4. With regard to the Federal Republic of Yugoslavia, she had recently appointed a Special Envoy to address the issue of prisoners, detainees and missing persons in that country. Her Office would

continue its work in the region by monitoring and protecting the rights of opinion and expression and the rights of prisoners and detainees throughout the country, contributing to early warning and conflict prevention and monitoring human rights violations perpetrated by all sides to the conflict in Kosovo.

5. Her Office was vigorously engaged in Sierra Leone, providing support for the human rights training programmes of the United Nations Mission in Sierra Leone (UNAMSIL) and working for the release of abductees and for humanitarian access. It was also involved in programmes to strengthen civil society and activities aimed at helping victims of the conflict. With the Office's support, the Government of Sierra Leone had made substantial progress towards the establishment of a national Human Rights Commission and the Parliament had adopted the statute for the Truth and Reconciliation Commission. Her Office had also contributed to the establishment of the special court for Sierra Leone, which would play an important role in countering the climate of impunity that still persisted in that country.

6. At the invitation of the Government of the Democratic Republic of the Congo, from 1 to 3 October 2000 she had visited Kinshasa, Lumumbashi — where she had met with President Kabila — and Goma, which remained under the control of the main rebel movement, the Rassemblement congolais pour la démocratie (RCD), and where she had met with the latter's President, Emile Ilunga. She had found that the human rights situation throughout the Democratic Republic of the Congo had continued to deteriorate, with serious, widespread and systematic violations taking place almost on a daily basis. The situation was exacerbated by widespread poverty, despite the country's enormous resources, and there was an urgent need to restore peace and initiate a sustainable programme of development.

7. During her visit, President Kabila had agreed to establish a moratorium on the death penalty, suspend the prosecution of civilians before the Military Court and reform the latter's statute so as to allow rights of defence and appeal. He had also promised carefully to review a list of some 200 arbitrarily detained individuals that she had provided to him. RCD, for its part, had agreed to investigate massacres referred to in the reports of the Special Rapporteur, facilitate the access of humanitarian agencies to vulnerable groups and prevent any action against representatives of civil society. Lastly, she had been able to present her Office's subregional strategy for Central Africa and to promote the Subregional Centre for Human Rights and Democracy to be established in Yaoundé, Cameroon.

8. With regard to the situation in the Republic of Chechnya in the Russian Federation, the Commission on Human Rights had adopted a resolution on the issue, which had been opposed by the Russian Federation and which called on the Russian Government urgently to establish a national independent commission of inquiry to investigate alleged violations of human rights, bring the perpetrators to justice and prevent impunity. The Russian authorities, in addition to continuing their cooperation with her Office, had taken three separate initiatives in that area.

9. According to the Russian Government's special representative for the protection of the human rights and freedoms of the citizens in the Chechen Republic, as of 1 October 2000, his office had received over 4,000 complaints of human rights abuses, more than 50 per cent of which were related to detention and missing family members, limitations on freedom of movement, abuses by soldiers and police, arbitrary arrests, beatings and unlawful detention. Many complaints had also been received regarding the lack of judicial institutions and legal assistance, as well as extortion of money by militia for crossing check points.

A national public commission on the investigation of violations of rights and respect for human rights in the Chechen Republic had also been established, and in September 2000, a special commission of the state Duma had held hearings on the economy and respect for human rights in Chechnya. None of the bodies mentioned had direct investigatory or prosecutorial powers and she had therefore requested information on the criminal prosecution of abuses committed by representatives of the Russian authorities against Chechen civilians.

11. Delegates of the International Committee of the Red Cross (ICRC) and the European Committee for the Prevention of Torture had visited places of detention inside and outside Chechnya. The European Court of Human Rights had received 60 submissions alleging human rights violations against Chechens. The Russian Government had instructed federal agencies to extend support to the activities of the Organization for Security and Cooperation in Europe (OSCE)

Assistance Group, including setting a date for the return of that Group to Chechnya.

12. She was very much concerned about the situation regarding the economic, social and cultural rights of the Chechen people and in the region. The Russian authorities maintained that they were allocating considerable funds to improving the situation, but the humanitarian plight of the Chechen people remained grave. There had been no significant return of displaced persons, and humanitarian agencies continued to be severely restricted in their activities because of security concerns and sometimes administrative reasons.

13. She stressed the importance of a credible response from the Russian authorities commensurate with the scale of the allegations of serious human rights abuses in Chechnya. Reports also continued of serious human rights violations committed by Chechen fighters, affecting federal and local authorities but also civilians. However, while recognizing the need to counter terrorist activities, she reiterated that such efforts must be in full conformity with international human rights standards.

14. In East Timor, her Office was finalizing a programme of technical cooperation on human rights with the United Nations Transitional Administration in East Timor (UNTAET) in order to provide, inter alia, human rights training to international civilian police advisers and support to the national truth and reconciliation process.

15. One of the most pressing problems was the situation of East Timorese refugees currently located in West Timor, which must be effectively and speedily addressed from a human rights perspective. Her Office had also provided technical assistance to the Government of Indonesia to strengthen its administration of justice and its capacity to support the prosecution of human rights violations.

16. The question of universal ratification of the core international human rights treaties must not be considered in isolation from its resource implications. Unless adequately funded, the human rights treaty body system would be unable to fulfil its key role. At the same time, treaty bodies must maximize their effectiveness. The reform and strengthening of the treaty bodies had been the subject of numerous studies and initiatives. Her Office, for its part, was organizing an inter-committee meeting on harmonization of the periodicity of reporting, to take place early in 2001, and a new petitions team had been established to expedite the processing of individual complaints mechanisms.

17. The Secretary-General's report on globalization and its impact on the full enjoyment of all human rights (A/55/342) had outlined the beginnings of a human rights-based approach to finding answers to the challenges of the new millennium. In that context, she welcomed the deepening dialogue between Her Office and the World Bank, which was a sign of the importance of a rights-based approach for the work of the Bank and other international institutions. She also welcomed the publication of the United Nations Development Programme (UNDP) *Human Development Report 2000* which established once and for all that human rights and economic and social progress were inextricably linked. She likewise noted that the open-ended working group on the right to development had made progress.

18. She welcomed the appointment of the first Special Representative for Human Rights Defenders and the creation of two new mandates, on the right to food and the right to adequate housing. With reference to the report of the Panel on United Nations Peace Operations (A/55/305-S/2000/809), she welcomed the Panel's recognition of the important role of human rights. Improving the capacity of her Office to provide support in peacekeeping operations would strengthen the sustainability of United Nations work for conflict prevention, peacemaking, peacekeeping and peace-building.

19. Lastly, she stressed the importance of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and warned that to be successful it would require adequate resources. In addition to the $4 million raised during 2000, therefore, another $6 million were required. Contributions were needed from all Member States, whether large or small, rich or poor.

20. **Mr. Magro** (France), speaking on behalf of the countries of the European Union, said that France did all it could to support the Office of the High Commissioner, particularly with regard to human rights protection during conflicts, the adoption of preventive measures and human rights education. With regard to the World Conference, he asked the High Commissioner to provide more details on the progress

of the regional preparatory process, how it tied in with the work of the Preparatory Committee and the inputs it would have to the World Conference. With regard to funding, he asked what approach would be adopted in the second appeal to be launched in Geneva in a few weeks.

21. **Ms. Barghouti** (Observer for Palestine) welcomed the High Commissioner's forthcoming visit to the occupied territories and said that she would do everything in her power to facilitate it. With regard to the establishment of a human rights inquiry commission she asked what specific action had been taken in that regard, given that the situation in the occupied territories was deteriorating daily, to the point that it jeopardized the peace and stability of the whole region. She also asked the High Commissioner to provide more details about the eight special procedures of the Commission on Human Rights.

22. **Mr. Salman** (Iraq) said that the humanitarian situation in Iraq was an extremely high priority. He trusted that the sanctions affecting that situation would be mentioned in the High Commissioner's report.

23. **Ms. Al-Hajaji** (Libyan Arab Jamahiriya) asked whether the High Commissioner would be able to visit the occupied Palestinian territories and report back to the General Assembly at its current session, as requested in the Commission on Human Rights resolution on the issue (see document E/CN.4/S-5/L.2/Rev.1). With regard to the international human rights treaty system and the appeal made to all States in paragraph 3 of the annex to the High Commissioner's report (A/55/36) to consider withdrawing any reservations entered under previous ratification, she said that a distinction had to be made between the universality of human rights, in which all civilizations and cultures were united in their approach to the particular issue of human rights, and globalization, which was a product of one super-Power imposed on other nations in a spirit of hegemony, colonization and racism.

24. Laws must be applied with full respect for the customs, traditions and civilizations of peoples, who must preserve their own traditions and their cultural heritage for future generations. Sometimes, States did not sign human rights instruments because the provisions of those instruments were contrary to their religion, culture or tradition. Most Islamic countries had reservations concerning some provisions that were incompatible with Islamic law, particularly those on equality between men and women and those on sexual relations, marriage and the family. However, it was important that those countries should be parties to the treaties, even if with reservations, since it was preferable that they should apply some provisions rather than none at all.

25. **Mr. Tarabrin** (Russian Federation) said that the attention devoted by the High Commissioner to the situation in Chechnya was disproportionate compared with other, more urgent, human rights situations. In Chechnya, the military phase of the anti-terrorism operation was complete and the efforts of the federal authorities were currently directed at establishing a political dialogue among the various groups, restoring public order, rehabilitating the social and economic infrastructure and ensuring respect for human rights. The situation remained tense, however, because of continuing terrorist attacks aimed at destabilizing the situation and frightening the population, as reported daily in the media.

26. The High Commissioner's report made it appear that the federal authorities were to blame for the situation, but that was a distortion of what was really going on in Chechnya. Objectivity was one of the fundamental criteria on which the High Commissioner's mandate was based. Public opinion in Russia paid close attention to the way in which international institutions viewed the situation in Chechnya. It would be inappropriate for the opinions of a United Nations official to undermine confidence in the United Nations human rights bodies.

27. **Mr. Maquieira** (Chile) requested more information on the issue of globalization and human rights and on the role of the World Bank and other institutions in the promotion of human rights.

28. **Mr. Heyward** (Australia) welcomed the High Commissioner's comments in response to the report of the Panel on United Nations Peace Operations and her participation in preparations for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. He asked whether, in the management of change process, consideration was being given to improving her Office's capacity to respond rapidly and effectively to situations where its assistance was required urgently.

29. **Ms. Robinson** (United Nations High Commissioner for Human Rights), replying to the first

question put by the representative of France on behalf of the countries of the European Union, said that the regional preparatory meetings were proceeding as planned. The last such meeting was taking place that week in Santiago, Chile, and would focus on the economic, social and cultural rights of vulnerable groups and indigenous peoples in the Latin American and Caribbean region. A successful regional preparatory meeting had been held in Strasbourg, at which participants had considered the problems facing European countries and had shown their willingness to deal with the issue frankly at the preparatory meeting and later at the World Conference.

30. With regard to the second question, an attempt had been made to achieve openness and transparency in the funding sought and the use to be made of it. It was important to receive support, including practical support, from all countries in all regions of the world. Considerable progress had been made in preparing for the second annual appeal for funds which would draw on the experience gained from the first such appeal. The appeal would be announced in late November or early December.

31. Replying to the Observer for Palestine, she said that in paragraph 6 (a) of the resolution in document E/CN.4/S-5/L.2/Rev.1, the Commission on Human Rights had decided to establish, on an urgent basis, a human rights inquiry commission. The Chairman of the Commission on Human Rights, in consultation with the Bureau, would thus have responsibility for that commission, while her Office would provide all necessary support. The six Special Rapporteurs, the Representative of the Secretary-General and the Working Group that were requested to carry out missions to the occupied territories were listed in paragraph 6 (c) of the resolution. Her Office had informed the parties concerned about the resolution and would assist them in carrying out their mandates.

32. Replying to the representative of Iraq, she said that her Office paid great attention to the humanitarian issues raised by human rights bodies, particularly human rights treaty bodies, and brought them to the attention of other interested parties within the United Nations.

33. Replying to the question from the representative of the Libyan Arab Jamahiriya concerning the request in paragraph 6 (b) of the Commission on Human Rights resolution that she undertake an urgent visit to the occupied territories, she referred to her announcement that measures were being taken to comply with the request. She also planned to visit Israel and other countries of the region. If the visit took place, she would report thereon to the General Assembly, as provided for in the resolution.

34. With regard to the withdrawal of reservations entered under previous ratification, she drew the attention of the representative of the Libyan Arab Jamahiriya to paragraph 3 (d) of the annex to her report (A/55/36) and pointed out that the wording used, which allowed for the possibility of taking into account any change in the circumstances under which a treaty had been ratified, was compatible with the approach which that representative seemed to be advocating. Furthermore, she recalled that the annex also referred to resource imperatives.

35. With regard to the comments made by the representative of the Russian Federation, she said that the length of the section dealing with the dialogue and cooperation between her Office and the Russian Federation reflected the importance of the elements of that dialogue and her desire to keep the Committee informed of its results. It also served as a response to the request made by the Commission on Human Rights in its resolution that an independent investigation be conducted into the allegations of human rights violations. In response to the statement by the representative of the Russian Federation that information on the Office's work must be objective, she emphasized the integrity and impartiality of the Office and its efforts to avoid the systematic selectivity often criticized in the field of human rights.

36. Responding to the representative of Chile, she said that his question concerning the role of the various institutions was an interesting one, because the Secretary-General had entrusted her Office with the task of mainstreaming human rights into the work of the United Nations as a whole. Such mainstreaming was evident in the UNDP *Human Development Report*, according to which human rights instruments formed part of the framework within which sustainable development must be approached since human rights contributed the values of participation, non-discrimination and assistance to vulnerable groups. Furthermore, the *World Development Report*, in which the World Bank had focused on poverty, emphasized the value of empowerment, thereby reflecting a human rights-based approach without using it expressly.

37. Replying to the representative of Australia, she said that her Office was reviewing the practical implications of the change of approach set out in the report of the Panel on United Nations Peace Operations. To perform its role more effectively in that context, the Office would require more resources. As to whether the management of change process was related to the need for the Office to respond more rapidly and effectively to the requests made of it, she said that, given the increasing mainstreaming of human rights questions in the various activities of the United Nations, the Office must be able to respond more quickly to requests from States, for instance, to sudden decisions by the Commission on Human Rights to convene a special session.

38. **Mr. Reyes Rodríguez** (Cuba) said that his delegation associated itself with those delegations which had endorsed the seriousness of the High Commissioner's work even though, in the short time which had elapsed, it had not been possible to address all the issues which required her attention.

39. In order to promote the international, multicultural and pluralistic nature of the High Commissioner's Office, Cuba recommended that there should be a better balance between the regional groups in its composition. Although it supported the idea of enhancing the preventive work of the Office, it was concerned that the Office was taking on functions which corresponded to the Secretary-General or to the Department of Political Affairs in support of the Security Council. For example, Cuba considered that it was unnecessary to establish an emergency response task force since, as the High Commissioner herself had pointed out in relation to the special sessions of the Commission on Human Rights, the Office already had an adequate response capacity. The Office should concentrate mainly on the promotion of human rights through education and technical assistance; any politicization of its work could damage its relations with Member States.

40. Cuba endorsed the rights-based approach, although it believed that that approach should be complemented with a development-based approach. It appeared that agencies, funds and programmes had reduced their support for infrastructure development and capacity-building of developing countries. Although the consolidation of democratic institutions should be encouraged, it was equally important to support education. Furthermore, if the rights-based approach included the right to solidarity, the Office could help developed countries, inter alia, to fulfil their commitment to allocate 0.7 per cent of their gross domestic product to official development assistance.

41. Cuba supported the Office's work to mobilize resources for the financing of human rights treaty bodies, while stressing the importance of rationalizing their work, as envisaged by the Secretary-General in his reform proposals. In particular, Cuba recommended the establishment of a participatory inter-governmental system.

42. **Ms. Mahouve Same** (Cameroon) expressed appreciation to the High Commissioner for her tireless work, and in particular her valuable contribution to the recent establishment, and financing by the General Assembly, of the Subregional Centre for Human Rights and Democracy in Central Africa, and her forthcoming visit to Yaoundé to facilitate the start-up of the Centre.

43. **Ms. Robinson** (United Nations High Commissioner for Human Rights) said that she agreed with the representative of Cuba that it was important that the Office should be international in nature, not only from the point of view of the support it received from countries, but also in terms of its composition. She wished to clarify that the plan was not to establish an emergency response task force, but to improve the capacity of the Office to manage change so as to enhance its response capacity. The Office was prepared to increase its cooperation with agencies such as UNDP or departments such as the Department of Peacekeeping Operations or the Department of Political Affairs; that would happen when the concept of human rights as a vital element of peacekeeping operations, as envisaged in the report of the Panel on United Nations Peace Operations was translated into concrete measures.

44. Responding to the comments made by the representative of Cameroon, she said that she was looking forward to carrying out her visit, so that the Subregional Centre for Human Rights and Democracy could be established with the participation of Governments of the subregion. She found it encouraging that the delegation of Cameroon, like other delegations of the subregion, had expressed satisfaction, since that would help make the Centre truly subregional. She expressed the hope that that example would be followed in other subregions, and affirmed her belief that subregional human rights

centres could be an effective instrument to promote education and institutional capacity-building.

45. **Ms. Jahangir** (Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions) said that the report she had submitted to the General Assembly at its fifty-fifth session (A/55/288) was based on material received from sources such as non-governmental organizations, individuals and Government officials, and on first-hand information gathered in the field. Field visits were essential since they allowed her to form her own impressions of a situation and understand the root causes of violations of the right to life. They were also useful because they made it possible to detect early symptoms of violence and take preventive action. In general, field visits were productive, especially where Governments and civil society were searching for solutions and their efforts could be strengthened through technical assistance and support from the international community.

46. She recalled that since her appointment, she had undertaken four field visits. The first visit had been to the former Yugoslav Republic of Macedonia and Albania, to assess the situation in Kosovo; the second to Mexico; the third to East Timor; and the last to Nepal. In all cases the Governments concerned had facilitated her work, for which she was grateful. There were two other important missions she had been requested to undertake which she had not yet been able to carry out, namely to the Democratic Republic of the Congo and to Chechnya. The first mission had not been possible because of the conditions on the ground, and the second, because the Government of the Russian Federation had not replied to the request she had sent.

47. It was her responsibility to bring to the attention of the international community reliable information about the state of human rights and, specifically, the right to life. Individual complaints and Government responses were an important element in assessing a situation. During the period under review, she had transmitted urgent appeals on behalf of more than 400 individuals to 54 Governments; sent more than 1,650 allegations regarding violations of the right to life to the Governments of 62 countries; and received a list of 133 documented cases of extrajudicial killings or death threats directed against human rights defenders which were reported to have occurred in 1999.

48. Her communications to Governments were based on reports which sometimes contained limited or selective information, but the important thing was that those complaints kept the mechanism alive for those whose rights were violated. She had noticed during her field visits that the human rights mechanisms of the United Nations were not well known. Governments and non-governmental organizations must take the necessary steps to raise awareness of those mechanisms.

49. The thrust of her mandate was to report on extrajudicial, summary or arbitrary executions and on violations of the right to life committed by non-State actors who were protected or tolerated by Governments. She also had to monitor the implementation of existing international standards relating to the imposition of capital punishment. Violations of the right to life were occurring in every region of the world, and the steps that were being taken to deal with them were often ineffective. It was, therefore, imperative for the international community to concentrate its efforts on effective prevention and to establish early-warning mechanisms with the capacity to identify signs of emerging crises.

50. It was regrettable that in countries where human rights violations occurred regularly, there was growing pessimism and little faith in the ability of peaceful political movements to bring about change. The result was a vicious cycle of violence. Furthermore, many Governments lacked the capacity to put an end to human rights violations or, unacceptably, insisted on defending extrajudicial killings committed by their security forces. Persistent impunity, disrespect for the rule of law and weak legal and judicial systems were factors which engendered violence. The inequitable distribution of wealth and continuous discrimination on the basis of ethnic or religious factors further polarized the population. In particular, newly founded democracies faced the risk of eruptions of violence as a legacy of past oppression. It was therefore critical to support the countries in transition in their efforts to establish sound governance and prevent outbreaks of violence.

51. With regard to the question of the death penalty, she said that in many cases international law was not being respected. There were still countries which applied the death penalty to mentally handicapped or ill persons and pregnant women. She had also received reports of executions of persons who at the time of the

commission of the crime had been under the age of 18. It was encouraging that the Government of Pakistan had abolished the death penalty for minors. The Republic of Yemen had informed her that it was enacting a law that would have the effect of abolishing death sentences on persons under the age of 18. Far too often, international standards and restrictions regarding the use of the death penalty were not being respected, turning supposedly legal executions into violations of the right to life. She therefore strongly urged all Governments which retained the death penalty to impose a moratorium on executions, with a view to the final abolition of capital punishment.

52. **Ms. Chan** (Singapore), referring to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, said that she wished to stress, at the outset, that Singapore strongly and unreservedly condemned such executions and supported the work of the Special Rapporteur. Unfortunately, the Special Rapporteur's potentially excellent report had been badly damaged because she had exceeded her mandate, which had regrettably been the case with other special rapporteurs. The Special Rapporteur's mandate allowed her to continue monitoring international standards relating to capital punishment, which was fully justified in view of the seriousness of that penalty. However, instead of confining herself to that task, the Special Rapporteur had opted to express her personal views, and to urge countries that retained the death penalty to consider imposing a moratorium on executions with a view to completely abolishing the death penalty, and she had even gone so far as to criticize certain States simply because their criminal law made provision for capital punishment.

53. To equate capital punishment, which was an execution carried out after due process of law, with extrajudicial, arbitrary and summary executions, as the Special Rapporteur had done, was not only a grave error, but also slanderous, morally and legally unjustified, and philosophically untenable. The debate on capital punishment by the General Assembly at its fifty-fourth session had made it clear that the death penalty was a delicate matter on which there was no consensus. It was for that reason that the General Assembly had decided not to address the issue again at the current session. It was therefore regrettable that the Special Rapporteur had chosen to reopen the debate on that controversial issue. Special rapporteurs should carry out their mandates objectively, since otherwise they would undermine their credibility and that of the Organization they represented.

54. **Ms. Al-Hajaji** (Libyan Arab Jamahiriya) asked the Special Rapporteur on extrajudicial, summary or arbitrary executions whether she planned to visit the occupied Palestinian territories and submit a report on the issue, as requested by the Commission on Human Rights. She also asked whether the Special Rapporteur intended to investigate the way in which the economic sanctions which the United Nations had imposed on some countries affected the right to life.

55. Like the representative of Singapore, she felt that the question of capital punishment was a very delicate matter and that the debate should not be re-opened. Many States, including most of the Islamic countries, made provision for the death penalty in their legislation. In the specific case of the Libyan Arab Jamahiriya, the death penalty was applied to the perpetrators of heinous crimes which endangered national security, such as persons who divulged State secrets, poisoned water or food, engaged in drug trafficking or destroyed oil installations. The death penalty was never applied to ill or mentally defective persons, minors or pregnant women. Furthermore, the judge could commute the sentence, and the family of the victim could intervene to prevent the application of the death penalty.

56. A crucially important issue which the Special Rapporteur should take up was the impunity of the perpetrators of massive violations of human rights, such as genocide and war crimes. In that context, she wished to point out that the Rome Statute of the International Criminal Court was a legal instrument which was liable to be applied in an unjust manner, since its criteria were selective and sought only to prosecute persons from weaker countries. An example was the case of Augusto Pinochet. Pinochet, who had finally not been tried because of his state of health, had accomplices in the ministries and intelligence services of powerful countries who were equally responsible for the crimes in question and should appear before the courts. However, no one would seek them out so that justice could be done. The same thing had happened in the case of General Noriega. As long as that selectivity continued and the defendants came only from weaker countries, her Government would not sign the Rome Statute.

57. **Mr. Magro** (France), speaking on behalf of the countries of the European Union, reaffirmed his full support for the work which the Special Rapporteur on extrajudicial, summary or arbitrary executions was carrying out in full independence and with great intellectual rigour. The Special Rapporteur indicated in her report that measures had been taken to provide protection to human rights defenders and stressed the need to seek new solutions to that problem. He asked the Special Rapporteur whether she could suggest any specific solution. It was also pointed out in the report that impunity was one of the root causes of extrajudicial executions and that sometimes it arose as a result of amnesty laws passed in the interest of national reconciliation. He asked the Special Rapporteur to suggest urgent measures which could be adopted at the national and international levels to put an end to impunity and requested her to expand her comments on the subject of national reconciliation, giving some positive examples. With regard to the death penalty, the countries of the European Union believed that it was important to continue the consideration of the issue, and for the Special Rapporteur to study the problem in greater depth and propose solutions.

58. **Mr. Al-Saedi** (Kuwait) said that there were two groups of countries which, for cultural, religious and other reasons, either applied or did not apply the death penalty. The differences of opinion expressed in the General Assembly had been no more than a demonstration of democracy. His delegation agreed with the Special Rapporteur that the death penalty should not be applied in an extrajudicial or summary manner, or to pregnant women or minors. There were non-Islamic countries among the countries which retained the death penalty which did not respect those exceptions. The Special Rapporteur might be personally opposed to capital punishment; however, she should not allow her personal opinions to influence her work, in which a balance should be maintained.

59. **Mr. Oda** (Egypt) said that in her report on capital punishment, the Special Rapporteur had expressed her personal opinions without being requested to do so, notwithstanding the limits of her mandate and the resolutions of the Commission on Human Rights and the General Assembly. It would be regrettable if, despite being aware of the 1999 deliberations on capital punishment, with their diversity of elements and opinions, the Special Rapporteur did not take them into account.

60. It had become customary for special rapporteurs and special representatives to exceed the limits of their mandates in their work. Although the Special Rapporteur was entitled to express her personal opinions, she should not do so in a report which was being submitted to the General Assembly, or in her capacity as Special Rapporteur. His delegation was displeased with the inclusion of personal opinions in the report and called upon all special rapporteurs to remain within the mandate entrusted to them.

61. **Ms. Jahangir** (Special Rapporteur on extrajudicial, summary or arbitrary executions), responding to the questions asked and comments made, said that with regard to the question by the representative of the Libyan Arab Jamahiriya, she was prepared to analyse the issue of economic sanctions and to refer to it in her next report. She was willing to visit the Middle East and had so informed the Commission and the Office of the High Commissioner. As she had indicated in her report, the Commission's resolution on the subject must be submitted to the Economic and Social Council before measures could be taken in that respect.

62. She proposed to contact the Special Rapporteur on the independence of judges and lawyers in order to verify the independence of the judicial system of countries in which capital punishment was applied. The guidelines for her work indicated that capital punishment should be applied only in countries in which the most stringent legal norms existed.

63. With regard to the Rome Statute, it was to be hoped that it would ensure that the weak were afforded protection and that those who committed human rights violations did not have impunity. She would advocate that the application of the Statute should not be selective and should contribute to achieving a more just international system.

64. She assured the representative of France that she would do everything possible to maintain the integrity of her work, which was based on facts brought to her attention and was governed by international law and by the guidelines formulated by the human rights bodies of the United Nations. With regard to human rights defenders, she believed that it was not enough for Governments to indicate that they were providing protection to such persons. The origin of threats against

them must be investigated, and those who had threatened or even murdered human rights defenders must be prosecuted. It was also important to have information on the groups which made human rights defenders the target of attacks, since there was a tendency in many countries to attack human rights defenders when a report on human rights violations was issued.

65. On the question of the death penalty, she drew attention to paragraph 60 of her report to the Commission (E/CN.4/2000/3), which referred to the call made by the General Assembly as early as 1971 for States to progressively restrict the use of the death penalty with a view to its abolition. At its fifty-fifth session, the Commission on Human Rights had adopted for the third consecutive year a resolution (1999/61) calling for restrictions on the use of the death penalty and urging all States that still maintained the death penalty to establish a moratorium on executions, with a view to completely abolishing the death penalty.

66. In arriving at her conclusion, she had been guided by international norms and the guidelines formulated by the Commission, as well as the frequent reports she had received on persons who had been executed in judicial systems which were regarded as independent and efficient, but did not respect certain norms on impartial trials. Since the death penalty was irreversible, it was essential that the most rigorous standards should be observed in its application.

67. **Ms. Nduku** (Democratic Republic of the Congo) said that the Special Rapporteur had indicated that she had been unable to carry out her work in relation to the Democratic Republic of the Congo; however, in her statement she had referred to reports of executions of persons under the age of 18. Her delegation wished to know whether the Special Rapporteur had received those reports and whether she had received complaints about what was happening in the area of the Congo which was occupied by troops from neighbouring countries and where, according to reports, Congolese women had been buried alive.

68. **Ms. Al-Hajaji** (Libyan Arab Jamahiriya), after pointing out that there had been a misunderstanding because of language differences, said that the death penalty was applied in her country, as in most Islamic societies. Her country was considering the possibility of abolishing it, but was not yet in a position to do so. Some countries had abolished the death penalty and then reinstated it.

69. **Mr. Al-Saedi** (Kuwait) said that the death penalty was applied in his country in implementation of the Koran and the religion of Islam. Other countries applied it for reasons which were not religious, but cultural or traditional. It was an internal matter for each State to maintain or abolish the death penalty, and no other country had the right to impose its values.

70. **Mr. Ismael** (Sudan) said that the question of the death penalty was clearly defined in the Islamic religion and in the Koran.

71. **Ms. Chan** (Singapore) said that although the Special Rapporteur was entitled to question the norms of the legal systems of any country, including those which retained the death penalty, that was not the same as urging countries in general to abolish the death penalty: that was an internal matter for States, and it was States which had to make a decision.

72. **Mr. Bahraini** (Islamic Republic of Iran) said that the death penalty should be considered in the appropriate forum, and that was not the Committee. Moreover, he wished to point out that the information included in the report of the Special Rapporteur concerning the execution of persons under the age of 18 in the Islamic Republic of Iran was incorrect and without foundation.

73. **Ms. Jahangir** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that she had sent a letter to the Islamic Republic of Iran regarding the information she had included in the report and she hoped to receive a reply as soon as possible. With regard to the Democratic Republic of the Congo, she said that she had been unable to visit that country, but she had followed events closely and hoped to be able to make her visit.

74. **Mr. Shaloub** (Saudi Arabia) said that he wished to confirm that in his country the death penalty was applied in fulfilment of the Shariah, which was the basis of the Constitution; the question of applying or abolishing the death penalty was an internal matter for each country, and no one had the right to interfere. With regard to the accusation that in Saudi Arabia the death penalty was applied to persons under the age of 18, he said that the Kingdom of Saudi Arabia had acceded to the Convention on the Rights of the Child without reservations.

75. **Ms. Nduku** (Democratic Republic of the Congo) reiterated her question about reports from the independent press that 15 Congolese women had been buried alive by Rwandan elements in the eastern part of the country, stressing the importance of the events which were taking place in the occupied part of the Democratic Republic of the Congo.

76. **Ms. Jahangir** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that her report was based on reports transmitted directly by international organizations, non-governmental organizations or individuals.

77. **Mr. Hossain** (Special Rapporteur on the situation of human rights in Afghanistan) said that in its attempts to solve the problem of the human rights situation in Afghanistan, the international community had achieved only limited success. Despite repeated resolutions in which the Security Council had urged the parties to end the armed conflict and to engage in peace negotiations, the situation of the Afghan people, described by the Secretary-General in his report of June 2000 (A/54/918-S/2000/581), remained deplorable. The 1988 Geneva Accords on the withdrawal of foreign troops had raised hopes of a broad peace process which were still unfulfilled. The peace initiatives taken in 1999 had been aborted by the military offensive in the central highlands. Following the resignation of the Special Envoy of the Secretary-General, the latter had appointed a Personal Representative; in the course of extensive consultations, all the Governments concerned had acknowledged the central role of the United Nations in restoring peace to Afghanistan and had expressed support for his efforts. The exchange of prisoners facilitated by the Organization of the Islamic Conference had been abruptly interrupted by the resumption of externally supported armed conflict in early July 2000, followed by an offensive launched by the Taliban at the end of July.

78. The seriousness of the situation had led to further large-scale internal displacements following the displacement caused several months earlier by one of the worst droughts in decades. Applying the yardstick of the Guiding Principles on Internal Displacement approved by the Commission on Human Rights, Afghanistan ranked as one of the countries with the largest population of refugees (4 to 6 million) and displaced persons, which highlighted the urgent need to continue to provide humanitarian assistance. As of August 2000, only 59 per cent of the US$ 67 million which had been requested from the international community for humanitarian assistance to alleviate the effects of the drought had been received, and only 43 per cent of the funds requested in the consolidated appeal for 2000. In view of the lack of funding, even mine removal operations had had to be reduced by 50 per cent.

79. In July 2000 he had visited the Islamic Republic of Iran, where there were about 1.4 million Afghan refugees (a similar number remained in Pakistan). In a screening centre for refugees, throngs of supplicants had appealed to be allowed to remain in Iran; in another locality of the province, young female refugees who were receiving training in computer and other skills had begged not to be repatriated to Afghanistan under the prevailing conditions, since they would lose access to education and employment. The programmes serving the refugee population in the Islamic Republic of Iran faced acute shortages of funds; a heart-rending example was the threat of closure faced by the kindergarten for war orphans in Mashhad because the Afghan teachers had not been paid for six months.

80. With regard to the impact of armed conflict and of violations of international humanitarian law on the overall situation, he said that the civilian population was continuing to bear the brunt of the fighting, which caused deaths, material damage and displacement. Around mid-July, reliable reports had been received of summary executions of Uzbek and Hazara prisoners in the province of Samanyan in early May 2000. General Ismail Khan, a former governor of Herat, and two other persons who had escaped from a maximum security detention centre in Kandahar had given harrowing accounts of torture and reported the summary execution of Suleiman Zirak, who had been visiting the country under a general amnesty declared by the Taliban.

81. As to the impact of the edicts by the Taliban on the overall human rights situation, he said that a Pakistani football team had been arrested for appearing on the field in shorts, in violation of the dress code ordered by the Taliban. Later, the Taliban authorities had apologized for the occurrence and had announced that the person responsible had been removed from his post. In early July 2000 an edict had been issued banning Afghan women from working in non-governmental organizations and United Nations agencies. In July, Mary MacMakin, an American aid

worker aged 71 years who had worked for over 20 years in Afghanistan in a physiotherapy and rehabilitation centre, had been arrested along with seven female Afghan workers and accused of spying and spreading anti-Taliban propaganda. In response to representations, the Taliban had released the detainees, but had directed Ms. MacMakin to leave Afghanistan within 24 hours.

82. There were reports that the severity of some Taliban edicts had been eased to a certain extent. For example, applications to establish private schools for girls had been granted, and for the first time in recent history International Women's Day had been celebrated publicly and officially in Kabul. A proposal had been considered for relaxing the ban on television so that it could be used to promote Islam (television, cinemas and music had been banned for four years).

83. In mid-August 2000, the Taliban authorities had promulgated a statute on the activities of the United Nations in Afghanistan which placed substantial restrictions on the activities of the Organization and its specialized agencies and could obstruct the provision of humanitarian assistance and impede access to the population. The measure was inconsistent with the memorandum of understanding signed with the Government.

84. If the situation was to improve in a measurable way, the Taliban authorities must respond to the allegations regarding violations of international humanitarian law and alleged torture and summary executions. If the allegations were confirmed, the persons responsible for summary executions and torture would incur international criminal responsibility, and the international community would consider the appropriate measures to be applied to them. He had intended to take up the issue of the alleged violations with the Taliban authorities, but his request for a visit in September 2000 had been denied. The United Nations High Commissioner for Human Rights had written in support of his request for a visit.

85. The United Nations and the international community were actively focusing on resolving the urgent issue to which he had drawn attention in his earlier reports, namely the need to put an end to the armed conflict and move forward with a peace process which would involve all segments of the Afghan population inside and outside the country in establishing a broad-based, multi-ethnic, and truly representative Government. Such a Government would repeal government edicts, undertake the rebuilding of the country, its economy and its institutions, and ensure for all citizens the enjoyment of their human rights in accordance with the international instruments to which Afghanistan was a party. More than 10 years after the Geneva Accords, the United Nations and the international community should not be content with half measures and inadequate steps which would prolong the agony of the Afghan people, who were the victims of a protracted conflict supported by external forces. The Geneva Accords and the resolutions of the Security Council should protect them from external interference and the international instruments should guarantee the exercise of their human rights.

86. **Mr. Farhâdi** (Afghanistan), after expressing appreciation for the report of the Special Rapporteur on the situation of human rights in Afghanistan, said that the reign of terror imposed by the Taliban and its accomplices — the Pakistani secret services and Bin Laden — in the occupied parts of Afghanistan constituted a danger to the life, liberty and security of the inhabitants of the country. In defiance of all international human rights instruments and of international humanitarian law, the Pakistani secret services, Bin Laden and the Taliban were continuing to commit atrocities against the civilian population. In the report of the Secretary-General on the situation in Afghanistan (A/55/393-S/2000/875, para. 27), it was clearly stated that "from mid-July the Taliban started preparations for a new offensive, this time in the northern province of Baghlan, bringing in 8,000 to 10,000 fighters, including non-Afghan elements, mainly from religious schools in Pakistan and other sources".

87. The Special Rapporteur had also mentioned the existence of non-Afghan elements, but had missed a fundamental aspect, the responsibility of the Pakistani aggressor in accordance with the Charter of the United Nations and the principles of international law. The Special Rapporteur could have visited Pakistani prisoners in Afghanistan in order to gather information about the situation of the refugees and displaced persons and all the atrocities committed against the civilian population. He could also have observed that the Islamic State of Afghanistan recognized, respected and promoted the human rights of girls and women and their right to education and employment. The fact that the Taliban had not allowed the Special Rapporteur to

visit Afghanistan demonstrated its intention to continue to defy the decisions and resolutions of the United Nations and to continue massive violations of human rights.

88. **Mr. Henault** (France) asked the Special Rapporteur on the situation of human rights in Afghanistan what he thought of the situation of child soldiers in that country.

89. **Mr. Barsky** (Russian Federation) recalled that the Special Rapporteur on the situation of human rights in Afghanistan had announced that he would talk to the Taliban during his mission to Afghanistan, but that that mission had not taken place. He asked what information the Special Rapporteur had transmitted to the Taliban leaders, and what their response had been. He also asked what measures the Special Rapporteur would suggest to prevent the Taliban from continuing to commit human rights violations.

90. **Mr. Hossain** (Special Rapporteur on the situation of human rights in Afghanistan), responding first to the representative of Afghanistan, said that it would indeed have been useful to visit the northern part of the country. He had intended to go there, but the outbreak and continuation of hostilities had made that impossible. He would welcome the cooperation of the delegation of Afghanistan in carrying out that mission in due course.

91. Replying to the question by the representative of France about child soldiers, he said that his source on the question was the report of the Secretary-General, in which it was stated that there were 14-year-old soldiers. That had also been the response he had given the Taliban authorities when they had asked where he had obtained the information that there were child soldiers. At the current time, the population was resisting the recruitment of children, but unemployed youth and young people living in refugee camps were a steady source of recruitment. Another problem was that it was not always possible to verify the age of soldiers.

92. Replying to the question from the representative of the Russian Federation concerning human rights violations by the Taliban, he said that he had had an opportunity to talk to persons who had been detained, and they had informed him that they had undergone torture and ill-treatment. There seemed to be detention centres with windowless cells. Since the complaints were very serious, he had not wished to deal with the issue through a mere exchange of letters, and he proposed to take it up personally in order to determine whether the complaints were true. He therefore hoped that he would be granted access to detention centres. On his next mission to Afghanistan he would investigate the situation in greater depth and would submit a detailed report on the basis of reliable data since, in his view, the issue required a higher level than press reports.

The meeting rose at 6.10 p.m.